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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,745	01/30/2004	Christian Bauer	713-1003	9896

33712 7590 07/05/2005

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EXAMINER

WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/767,745

Applicant(s)

BAUER, CHRISTIAN

Examiner

Alfred Joseph Wujciak III

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 12-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 12-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

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DETAILED ACTION

This is the final Office Action for the serial number 10/767,745, RETAINING MEMBER, filed on 1/30/04.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 24 and 32 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 24, line 2, "lot" is indefinite and it should be changed to ---slot--- for clarification.

Claim 32, line 2, "said support" recites combination/subcombination problem because "support" is not positively cited in the preamble of claim 31.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 12-27 and 29-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent # 5,464,179 to Ruckwardt in view of US Patent # 4,441,677 to Byerly.

Ruckwardt teaches a retaining member (1) comprising a base portion (2) attachable to the support, a holding portion (3) connected to the base portion and comprising a recess (17) for

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holding the elongated element therein. The recess comprises a tubular portion (16) and a plurality of spaced ribs (18-19) extending radially inwardly from the tubular portion.

Furthermore, Ruckwardt teaches the retaining member for supporting an elongated element (col. 1, line 38, tube-shaped parts). The base portion is made of a hard plastic material (col. 2, lines 59-60) and the ribs and tubular portion are made of a softer plastic material (col. 2, lines 61-62).

Ruckwardt teaches the plurality of ribs having first and second ribs but fails to teach the first ribs having a greater radial height and second ribs having a smaller radial height. Byerly teaches the first ribs (32) having a greater radial height and the second ribs (34) having a small radial height. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Ruckwardt's first and second ribs to greater height and smaller height as taught by Byerly to increase in friction force for retaining an object within the tubular portion.

Ruckwardt teaches the ribs but fails to teach the ribs are elongated in a circumferential direction of the tubular portion. Byerly teaches the ribs (figure 6) are in the circumferential direction of the tubular portion. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Ruckwardt's plurality of ribs in circumferential direction of the tubular portion as taught by Byerly to improve support for retaining object in the tubular portion.

Ruckwardt teaches having first and second ribs but fails to teach the first ribs having a greater radial height and second ribs having a smaller radial height. Byerly teaches the first ribs (32) having a greater radial height and the second ribs (34) having a small radial height. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have

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modified Ruckwardt's first and second ribs to greater height and smaller height as taught by Byerly to increase in friction force for retaining an object within the tubular portion.

In regards to claims 17-19, Ruckwardt in view of Byerly teaches the first ribs is greater than the second ribs but fails to teach the first rib having a first width at the top that is smaller than a second width of the second rib at top. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Ruckwardt in view of Byerly's width of first ribs' top to smaller than the second width of the second rib's top to provide designer's choice for size of top to increase friction force for retaining an object within the tubular portion.

In regards to claim 30, Ruckwardt teaches the retaining member comprising a resilient contact element (20) but fails to teach the resilient contact element is made from the same plastic material as the first and second ribs. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have used same plastic material form the first and second ribs for the resilient contact element to provide convenience for inserting screw/bolt therein.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ruckwardt in view of Byerly and in further view of US Patent # 3,126,184 to Kropp.

Ruckwardt in view of Byerly teaches the first rib is in convex curve but fails to teach the second rib is in concave curve. Kropp teaches the first rib (56) is in convex curve and the second rib (57) is in concave curve. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Ruckwardt in view of Byerly's second rib with

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concave curve as taught by Kropp to provide designer's choice for the shape of rib in the retaining member.

Response to Arguments

Applicant's arguments with respect to claims 1 and 12-32 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (571) 272-6827. The examiner can normally be reached on 8am-4:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III
Examiner
Art Unit 3632 *ASW*

5/27/05

 6/27/05
ROBERT P. OLSZEWSKI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600